

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7345

BILL NUMBER: HB 1751

DATE PREPARED: Feb 9, 1999

BILL AMENDED: Feb 8, 1999

SUBJECT: Cigarettes packaged for export.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill prohibits a person from importing cigarettes that: (1) have been marked for export outside the United States with a label or notice required by federal law; or (2) violate federal requirements for the placement of labels, warnings, or other information on individual packages of cigarettes that are packaged for sale in the United States. It prohibits a person from placing a tax stamp on a package of cigarettes, cigarette papers, wrappers, or tubes unless the package complies with all federal tax laws, federal trademark and copyright laws, and all federal laws regarding the placement of labels, warnings, or other information upon a package of cigarettes, cigarette papers, wrappers, or tubes. The bill also prohibits a person from placing a tax stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if the package has been marked for export outside the United States with a label or notice required by federal law.

Penalties are established for violations of these provisions. The bill provides that it is not a defense in a criminal proceeding for the violation of these provisions that the label or notice required by federal law on cigarettes marked for export has been removed, mutilated, obliterated, or altered in any manner.

Effective Date: (Amended) Upon passage.

Explanation of State Expenditures: (Revised) This bill prevents a person from importing cigarettes into Indiana that do not display federally required warning labels and information or are marked for export. Such packs are intended only for sale outside of the United States. A person would also be barred from affixing Indiana tax stamps to cigarettes, cigarette papers, wrappers, or tubes that do not comply with all federal labeling regulations or are marked for export. The bill establishes the possession of export cigarette packs bearing Indiana tax stamps as a Class A misdemeanor. The Department of Revenue (DOR) would be directed to confiscate and destroy stamped export cigarettes and also share information with the US Customs Service concerning enforcement of this proposal. The bill would also allow the DOR to revoke the registration of a cigarette distributor for violations of these provisions.

This bill would increase the administrative expenses of the DOR. The Department currently has the statutory authority to investigate and revoke registrations for other violations regarding cigarette tax stamps, but may require additional staff members to comply with the provisions of this bill.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

A person previously convicted of a misdemeanor under this bill who knowingly possesses more than 12,000 cigarettes (in stamped export packs) would commit an Class D felony. A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately seven months.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: Under this bill, the sale of cigarettes packaged for export bearing Indiana tax stamps would constitute a Class A misdemeanor. A Class A misdemeanor is punishable by up to one year in jail, and felony defendants may be detained in county jails prior to their court hearings. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: DOR, Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Russ Abrams, Director, Tax Policy Division, DOR, (317) 232-2104; Indiana Sheriffs Association; Department of Correction.